

## REMARKS

Applicant has carefully studied the outstanding Official Action mailed on September 8, 2008. This response is intended to be fully responsive to all points of rejection raised by the Examiner and is believed to place the application in condition for allowance. Favorable reconsideration and allowance of the application are respectfully requested.

Claims 1 and 5-15 (*sic*, claim 11 has been canceled previously) stand rejected under 35 USC §103(a) as being unpatentable over Shain et al (US 6027459), Douglas et al. (US 5951492), Moerman et al (US 6706159) or Stiene et al. (US 2004/0096959) in view of Eason et al (5186897) alone or further in view of Tenerz et al (US 4941473).

Applicant respectfully traverses these rejections. The optical waveguide in Eason et al. is used in a different manner than the instant invention. As stated in the previous response, Eason et al. does not teach using an optical waveguide to optically connect the optical sensor to the processor. Instead, Eason et al. teaches using the optical waveguide as the place where the reaction takes place and uses an external fluorescence measuring device to measure the fluorescence created in the optical waveguide. The fluorescence measuring device is not connected to the optical waveguide. In contrast, in the present invention, the optical waveguides optically connect the optical sensor to the processor. This is entirely different from Eason et al.

Examiner seems to agree with this point but says one cannot show nonobviousness by attacking a single reference when Eason et al. was used in combination with other references.

Accordingly Applicant will now explain why the teachings of Eason et al. combined with the teachings of the other cited art does not teach a device with a disposable housing having an optical waveguide connected to a reusable housing having another optical waveguide, wherein the two housings are connected to each other by optical connectors.

First, Shain et al. does not teach a disposable housing connected to a reusable housing. Instead Shain et al. teaches a disposable lancet 116 to a reusable housing 102b which is connected to another reusable housing 102a – there is no disposable housing. Only the lancet is disposed of. Quoting from col. 19, lines 50-55: “The receiving portion 102a is separated from the projecting portion 102b when the lancet 116 or glucose detector 114 is being replaced. The receiving portion 102a is fitted tightly to the projecting portion 102b during the process of obtaining a sample of blood.” Indeed Shain et al. teaches away from the teachings of the present invention by placing the disposable needle in the display

housing. In the present invention, the disposable needle is not in the reusable display housing; rather it is in the disposable housing.

Second, Douglas et al. does not teach a disposable housing connected to a reusable housing. Instead Douglas et al. teaches a disposable lancet 12 and no disposable housing. Quoting from col. 6, lines 57-60: "When the disposable 12 is discarded after a testing operation, the capillary tube 18 and test strip 30 will be discarded therewith. A fresh disposable is then installed to present a new needle 14, capillary tube 18 and test strip 30." Indeed, Douglas et al. teaches away from a disposable housing and teaches the need for installing a fresh capillary tube and test strip in the reusable housing, contrary to the teachings of the present invention.

Third, Moerman et al. does not teach a disposable housing connected to a reusable housing. Instead Moerman et al. teaches a disposable sensor assembly and disposable lancets, but a reusable housing. This is taught throughout and may be easily seen in the summary of the invention: "Of these components, the meter is preferably reusable, while the lancet and the electrochemical sensor are preferably intended for single-use...Another aspect of the invention relates to disposable sensor assemblies for use in a meter in accordance with the invention. Such disposable sensor assemblies may contain just the sensor in a support suitable for attachment to the meter or both the sensor and the lancet. In the latter case, the disposable sensor assembly may contain one sensor and one or more lancets, or it may contain a plurality of lancet/sensor pairs." Indeed, Moerman et al. teaches away from a disposable housing and teaches the need for installing a fresh sensor assembly and lancet in the reusable housing, contrary to the teachings of the present invention.

Fourth, Stiene et al. does not teach a disposable housing connected to a reusable housing. Stiene et al. teaches a disposable needle (para. [0013]) and separate reusable measuring device (para. [0014]) but does not teach a connection between them. Stiene et al. contemplates optical sensing means in paragraphs 81 and 82:

"[0081] Where an optical measurement technique is employed, as an alternative to an electrochemical measurement technique a light sensing means will, in general, be required. In some cases a light source may also be required, but is not always the case, for example in the case of chemiluminescent measurement. Any such light sensing means and/or the light source may be provided integrally with the non-disposable measuring device e.g. a test-meter. According to one embodiment it or they are provided separately of the part of the device which is brought into contact with the sample fluid—e.g. a skin patch. This means that the device itself can be made disposable while the relatively more expensive light sensing

means and associated electronics for example could be provided in a separate test meter. [0082] In preferred embodiments the test device comprises means for optimising the light transfer from the sensing means to the optically sensitive means. In a simple embodiment such means comprises a lens, e.g. integrally moulded as part of the support member for the test device. Additionally or alternatively the device may be arranged such that the light sensitive means views the sensing means along the conduit, e.g. microchannel, along which the sample fluid passes. In other words the conduit, preferably a microchannel, acts as a light pipe."

Note that in para. 82 Stiene et al. teaches using the conduit as a light pipe with the light sensitive means *along the conduit*, not in a separate, reusable housing. Thus, despite Stiene et al. talking about using a reusable part, when it comes to using a light pipe, Stiene et al. teaches placing the light sensitive means not in a separate meter as in para. 81, but rather along the conduit in the disposable housing, contrary to the teachings of the present invention.

Thus the combination of Shain et al., Douglas et al., Moerman et al. or Stiene et al. in view of Eason et al. alone (and certainly further in view of Tenerz et al.) cannot and does not anticipate or make the instant invention unpatentable.

Claim 20 has been added and is also deemed patentable over the art. Accordingly, claims 1, 5-10 and 12-20 are respectfully deemed allowable. Applicant respectfully requests that a timely Notice of Allowance be issued in this case.

Respectfully submitted,  
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